



ORIGINAL

Dock 96-198

Federal Communications Commission
Washington, D.C. 20554

SEP 10 1998

EX-101/08 LATE FILED

IN REPLY REFER TO:
9805989

RECEIVED

SEP 14 1998

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

The Honorable Porter Goss
Member, U.S. House of Representatives
2000 Main Street
Suite 303
Fort Myers, Florida 33901

Dear Congressman Goss:

This is in response to your letter on behalf of your constituent, Joan Andrews, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

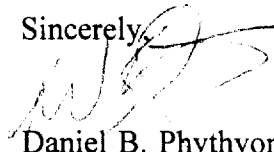
The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

[Handwritten signature]

August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The comments of your constituent will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your constituent's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. B. Phythyon", written over a horizontal line.

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

PORTER GOSS
14TH DISTRICT, FLORIDA

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Congress of the United States
House of Representatives
Washington, DC 20515-0914

July 22, 1998

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Ms. Sheryl Wilkerson
Director, Legislative and Intergovernmental Affairs
Federal Communications Commission
1919 M Street, N.W.
Room 808
Washington, D.C. 20554

RE: Name: Ms. Joan Andrews
Address: 2508 Deborah Drive
Punta Gorda, Florida 33950

Claim/File #:

Dear Ms. Wilkerson:


Enclosed, please find correspondence from the referenced constituent.

I would appreciate your immediate review of the concerns addressed in this correspondence and your prompt response as to what action will be taken by your office.

As I would like to respond to Ms. Andrews as soon as possible, may I extend my thanks in advance for your prompt attention to this matter.

Please reply to Karen Walker in my Fort Myers District Office at the above address.

Kindest regards,


Porter Goss
Member of Congress

PG:kjw
Enclosure

*CCB
H. Walker
TW
5/28/98*

Joan Andrews

2508 Deborah Drive
Punta Gorda, FL 33950-8157
June 24, 1998

AB
4860135
JUN 30 1998

The Honorable Representative Porter Goss
U. S. House of Representatives
108 Cannon House Office Building
Washington DC 20515

Dear Representative Goss,

It has come to my attention that the FCC is proposing actions that undermine Congressional intent to assure that telecommunications equipment and services are accessible to people with disabilities. Congress gave responsibility to the Access Board to develop guidelines called for in Section 255 of the Telecommunications Act of 1996. They gave the enforcement power to the FCC.

In the current FCC Notice of Proposed Rulemaking there are changes that will seriously affect the safety and welfare of hard of hearing and deaf citizens. I am gravely concerned about these actions. I am profoundly hard of hearing and rapidly approaching deafness. Like all persons with hearing loss, my dependence upon up to date accessible telecommunications grows daily. The prospect of losing communication access afforded by current and advancing technology is the reason I am writing to you today.

When Congress gave the Access Board the authority to develop guidelines for people with disabilities, it indicated that the FCC guidelines must be consistent with those recommended by the Access Board. It is unconscionable that the FCC is leaning toward reversing congressional intent to assure communication accessibility for deaf and hard of hearing people. Without this we cannot continue to be productive citizens in the areas of employment, government, community affairs, family and social life.

The first issue I am concerned about is the FCC's indecision as to whether the Board's well thought out and pertinent guidelines should be applied to service providers as well as to manufacturers. It is of prime importance that the FCC adopts the Access Board guidelines for both manufacturers and service providers. I experienced a problem a year or so ago when shopping for a cell phone that would be compatible with my portable TTY. I wanted this to use when driving in case I had an accident or mechanical problems. The service providers did not understand the compatibility importance and showed no interest or desire to assist me. As a result I spent a great deal of time looking for an appropriate product and eventually purchased one that is of minimal use. Problems such as this and more serious ones will become the norm if the FCC does not provide definitive wording to ensure that manufactures and providers understand, accept, and fulfill access responsibilities and obligations in designs and marketing of new equipment.

A second issue of concern is that the FCC has introduced a new means test that undermines the intent of the "readily achievable" concept adopted from the Americans with Disabilities Act (ADA) by Congress in formulating the Telecommunications Act. This term gives entities the right to demonstrate whether accessibility changes are too difficult to make or would involve an unreasonable financial burden. The FCC deviates from this standard by its intention to add "cost recovery" as a benchmark. This deviation will destroy the intent of the Telecommunications Act, weaken the protection offered by the ADA, and adversely affect millions of disabled Americans. Case by case demonstration of whether an action is too difficult or too expensive for manufacturers and providers to make should be retained as the single qualifying standard.

A third issue concerns the FCC proposal for a fast track complaint process that provides an 800 number for consumers to use in directing complaints to the FCC for an initial review. Supposedly within five days consumer complaints will be resolved or passed on to a more formal complaint process. No time frame for resolutions forwarded to the formal complaint has been suggested. The FCC proposes that there will be no filing fees for consumers to pay for complaints that are ultimately directed against manufacturers or service providers. Although this seems to be a consumer friendly approach, there is a downside in that *only* if the FCC permits, can the complainant invoke this procedure. By so doing, this means that the consumer will not have the right to take a case to court if the FCC opposes the action. This is unfair to the consumer for at that point he is denied the right to the court system.

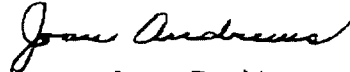
A fast track action is commendable, but resolution within five days is unrealistic. Companies need time to research their documents and should have the right to ask for an extension of thirty days. A more reasonable time frame than a five day turn around can, in many instances, result in resolution without having to refer the complaint to the advanced complaint level, thus increasing the possibility of completing the process more quickly for all concerned.

A fourth issue that concerns me is that the proposed FCC rules omit "enhanced services" from coverage under Section 255. This action would be particularly damaging to people with hearing loss. Voice mail and automated voice response systems, typical enhanced services, are common place now. Second and third generations of these types of enhanced services will be the norm within a short time. Hard of hearing people are stymied by automated voice response services that are difficult even for hearing people to follow and understand. There needs to be a default to repeat the series of instructions without having to hang up and redial for a second review. Those of us who use the relay service for TTY calls to voice numbers are unable to tell the Communication Assistant (CA) in advance what category/department of call we are making since we don't know whether a voice response system will answer nor what its menu will include. When this system answers the CA must repeat the choices and redial the number. All automated voice response systems should include an automatic out directing the caller to a human being.

The solution for these problems is not deletion of enhanced services, but rather refinement of those now in use, with firm policies to ensure that current and forthcoming technology will be accessible to people with hearing loss. Satisfactory resolution of this issue is paramount to the welfare of people who do not hear well. It impacts our educational, employment, financial, safety, and general well being.

Representative Goss, I implore you to stand fast in advising the FCC to follow the recommendations of the Access Board. By so doing you will support the vital communication needs of hard of hearing and deaf people throughout the nation. It is crucial that we preserve optimum telecommunication accessibility in the hearing world. Please contact the Chairman of the FCC, William E. Kennard, about my concerns.

Sincerely,



Joan Andrews, President
Florida Association of Self Help for Hard of
Hearing People